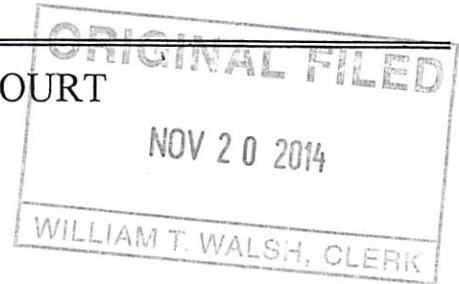


UNITED STATES DISTRICT COURT

for the
District of New Jersey



United States of America

v.

Michael Tway Smith

Case No. 14-MJ-2059 (JS)

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of November 19, 2014 in the county of Burlington in the
District of New Jersey, the defendant(s) violated:

Code Section
18 U.S.C. § 2423(b)

Offense Description
Travel with intent to engage in illicit sexual conduct.

This criminal complaint is based on these facts:

See Attached Affidavit

☒ Continued on the attached sheet.

Complainant's signature

Anthony Jones, Special Agent
Printed name and title

Sworn to before me and signed in my presence.

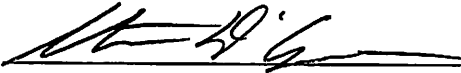
Date: 11/20/2014

Judge's signature

City and state: Camden, New Jersey

Honorable Joel Schneider - U.S.M.J.
Printed name and title

CONTENTS APPROVED
UNITED STATES ATTORNEY

By: 
STEVEN D'AGUANNO, Assistant U.S. Attorney

Date: November 20, 2014

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Anthony Jones, being duly sworn, depose and state:

1. I am a Special Agent with the Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI), assigned to the Resident Agent in Charge, Cherry Hill, New Jersey. I have been employed by DHS since 2003 and prior to that with the Immigration and Naturalization Service since 1996 as an agent. I earned a Bachelor of Science degree in the field of criminal justice. As an HSI agent, I investigate criminal violations relating to child exploitation, including violations which make it a federal crime for any person to travel across a state line with intent to engage in illicit sexual conduct, in violation of Title 18, United States Code, Section 2423(b). I have written and participated in the execution of several State and Federal search warrants relating to the exploitation of children.

2. The statements contained in this Affidavit are based on my experience and background as a special agent working in the area of child exploitation and on information provided by other law enforcement agents. I have not set forth every fact resulting from the investigation; rather I have set forth a summary of the investigation to date to establish probable cause to charge Michael Tway Smith ("Smith") of New York, New York with violating 18 U.S.C. § 2423(b).

3. For the reasons set forth below, there is probable cause to believe that Smith traveled across state lines with the intent to engage in illicit sexual conduct in violation of 18 U.S.C. § 2423(b).

DETAILS OF INVESTIGATION AND PROBABLE CAUSE

4. On November 13, 2014, Special Agent ("SA") Scott Beagle of DHS/HSI was acting in an undercover capacity in an online chat room titled "weirdtown chat 2.0" on the website Chathour.com when an individual using the nickname "mtsmith" began chatting with him. Chathour.com is a social website where a person is able to create a profile, post pictures and messages, and communicate in chat rooms. In an undercover capacity SA Beagle created a profile on Chathour.com utilizing the user name "13f4olderM" that suggested he was a thirteen (13) year-old female who was looking to meet an older male. SA Beagle created and posted the following comments on his

Chathour.com profile: "If i can't see ur pic, dont IM me. 13f just looking for an older guy. guys my age are so lame and cant drive or do anything. just as long as ur up front and tell me what u want when u IM me, its kewl. otherwise i probably wont respond. i just hate games, rp, dirty/fantasy chat. kinda a waste of time. and i can't cam so dont ask. dad busted me i dont have one anymore. wish i did. anyway, if u wanna be up front and tell the truth about ur intentions, friend me."

5. On November 13, 2014, while in the "weirdtown chat 2.0" chat room,¹ "mtsmith" sent SA Beagle the following message: "like older guys? like 66? am in new york city...looking to hang out. will email if you have interest or we write depending on where you are..."

6. On November 13, 2014, SA Beagle replied to "mtsmith" with the following message: "in south jersey".

7. On November 13, 2014, "mtsmith" sent SA Beagle the following message: "will ur dad bust both of us...i mean if he took the cam do we sneak to hang? and I don't have wheels but can rent them."

8. On November 13, 2014, SA Beagle replied to "mtsmith" with the following message: "well i wont tell him if u don't. hehe. and if u don't care im 13yo in south jersey, im game."

9. On November 13, 2014, "mtsmith" sent SA Beagle the following message: "i like going with teens. they seem more open to ideas and exploring. no way am i going to tell you dad anything. i work in tourism and sometimes have teen groups but cant flirt with anyone. need you to help me get around as i don't know jersey that well. can we email and what are you interests?"

10. On November 13, 2014, SA Beagle replied to "mtsmith" with the following message: "so like when u say "hang" u mean what?"

11. On November 13, 2014, "mtsmith" sent SA Beagle the following message: "movies. the mall. maybe swimming. having lunch. be with ur friends who won't rat us out ...maybe just drive someplace and explore. ur thoughts?"

¹ All of the chat room communications described in ¶¶ 5 through 20 of this affidavit occurred in the "weirdtown chat 2.0" chat room.

12. On November 13, 2014, SA Beagle replied to "mtsmith" with the following message: "honestly sounds kinda lame. what does "explore" mean? honestly don't like guys that aren't direct. sorry. good luck i guess."

13. On November 13, 2014, "mtsmith" sent SA Beagle the following message: "u wrote no dirty talk...explore can be making out. u want me to jump on u? because if u let me I will... thought u might want to know me a little."

14. On November 13, 2014, SA Beagle replied to "mtsmith" with the following message: "hot. dont care about making friends to be honest."

15. On November 13, 2014, "mtsmith" sent SA Beagle the following message: "ok then we make out...u set the limits...I'm horny..."

16. On November 13, 2014, SA Beagle replied to "mtsmith" with the following message: "k".

17. On November 13, 2014, "mtsmith" sent SA Beagle the following message: "when? u have school? where in south jersey and u want to go anyplace special?"

18. On November 13, 2014, SA Beagle replied to "mtsmith" with the following message: "lets talk about this over email if its kewl. dont really like talking here tbh. Blackgnome36@gmail.com....let me know its mtsmith from ch."

19. On November 13, 2014, "mtsmith" sent SA Beagle the following message: "email me at mtways2111@gmail.com....i will send you one now."

20. On November 13, 2014, "mtsmith" sent SA Beagle the following message: "sent email. not rejected."

21. On November 13, 2014, at approximately 10:22 AM, SA Beagle received an email on his undercover email account in the name April Adams using email blackgnome36@gmail.com ("the undercover email account") from an individual named Michael Smith using email address mtways2111@gmail.com. The email contained the text, "Gives u my email again. This is better. A topless shot of me. You prefer boxers or briefs or nothing..." The email contained an attached file

titled "IMG_20140107_075009.jpg". The file contained a photograph of Michael Tway Smith who appears shirtless. EXIF² data for the file shows the photograph was taken on January 7, 2014 at 7:50 AM using a Kyocera Rise cellular telephone.

22. On November 13, 2014, at approximately 10:39 AM, SA Beagle received an email on the undercover email account from email address mtways2111@gmail.com. The email contained the text, "I need to know how we meet. Will probably take train to someplace in south jersey to rent wheels. I'm hoping this can be ongoing.... :) You set the limits if any...I am clean. I have a vasectomy so no pregnancy worry. Since I freelance my time is flexible. I have pics if u want a preview. Am currently bald...Name is Michael tway smith. Most call me tway...best xxx."

23. On November 13, 2014, at approximately 10:39 AM, SA Beagle sent an email using the undercover email account to email address mtways2111@gmail.com. The email contained the text, "hi there. so like honestly, if u dont care im 13yo (some guys freak) and im like way far away its kewl. as for limits, i kinda like guys that tell me what they want and then i'll let them know if they crossed a line or like its something i might not like. my experience is kinda limited, so sorry. my name is april, and just to be clear, I dont send dirty pics. if thats a problem, sorry. just dont. like if we ever meet u can take what u want."

24. On November 13, 2014, at approximately 11:34 AM, SA Beagle received an email on the undercover email account from email address mtways2111@gmail.com. The body of the email contained the text, April...Ok. I have no problems with the pics. I can't friend on my mobile so can't see what you posted. Candidly I'm more interested in meeting and u in person. I'm not sure completely what I want but I know it would lots of kissing and foreplay. Know I'd like to kiss, lick and suck you. It would be nice if u played with my balls. Part of this depends on where we are and how much time we have as well. I don't know guys freak over ur age but you being 13 doesn't bother me. Most girls freak at my being 66. So yes I want to do this. If u want me to tell u first fine. Now how do we do this without getting busted. I'll get wheels. If we have time we can get a motel room. I'd rather not make out in the car but if that is it we play it by

²EXIF stands for Exchangeable Image File and is a standard format for storing information about digital images including the date and time that such images were taken.

ear. If u want pics of my junk I'll send them or u can take them or both. Next step is timing and location..."

25. On November 13, 2014, at approximately 12:54 AM, SA Beagle sent an email using the undercover email account to email address mtways2111@gmail.com. The body of the email contained the text, "that sounds like so hot! 4 reals. i would have to ditch school so like it would have to be during the week. like not gonna do anything in a car. sorry. kinda sketch. like the school calls if i ditch more than 2 days in a row. so im good for like 2 days depending on when. ii would need like a week or so in advance notice to make up a lie to friends and stuff. like my parents will just think im at school. let me know what ur thinking."

26. On November 13, 2014, at approximately 1:19 PM, SA Beagle received an email on the undercover email account from email address mtways2111@gmail.com. The body of the email contained the text, April...If u ditch school do we get the night or do u need to be home for the night? I agree I really don't like making out in cars. Now if I come down on a Sunday night I could a room for the night and we can hookup Monday when and where you tell me. Would get the room for Monday night as well. That way we would have Monday. How we Deal with Tuesday is open. This off the top of my head. Would other weekdays be better. Candidly I get hard just thinking about this. As I said I'm horny so I'd like to meet asap. I'll want to cover with foreplay. Question: should I let my hair grow in? Right now bald. Or do u care. A week puts us before Thanksgiving. That create a problem? And if I turn u on and satisfy u chance of other encounters. Also where in south jersey - at least the county? Tway."

27. On November 13, 2014, at approximately 4:40 PM, SA Beagle sent an email using the undercover email account to email address mtways2111@gmail.com. The body of the email contained the text, "ill just have to see about next week. like if i had some proof like ahotel reservation or something that you actually booked i might be able to make next week work. ive been stood up so many times its not even funny. the only ones that i meet now are the ones that show me theyre for real. give me some dates ur free next week. but like not the weekends. honestly, too much family stuff to break free. gonna have to ditch school."

28. On November 13, 2014, at approximately 4:52 PM, SA Beagle received an email on the undercover email account from email address mtways2111@gmail.com. The body of the email contained the text,

"April..All week. Give me dates as I looked at motels in the county. U know one cheap but clean and close to where I meet u? I don't want to waste travel time...will make booking this weekend. Tell me days...I know u have family stuff so it makes I it hard to write but I will work with that. And if next week to complex we wait until u get back. I won't stand u up. I have questions, but most are on ur list of things not to talk about...Tway."

29. On November 13, 2014, at approximately 5:40 PM, SA Beagle sent an email using the undercover email account to email address mtways2111@gmail.com. The body of the email contained the text, "so like my friend is having a sleep over tomorrow and that would be the best time to start making up a story. I live right by the 295/nj turnpike. as for hotels, i mean there are like a ton right there in the mt laurel area that I can walk to. like near the intersections i said. so like friday the 20th is good. but like im gonna have to ditch school that day so it would have to be during the day. if u can prove ur coming by tomorrow b4 the sleepover ill make up a story. if not, like we'll c i guess. anyway, gotta go for a bit. kisses."

30. On November 13, 2014, at approximately 10:50 PM, SA Beagle received an email on the undercover email account from email address mtways2111@gmail.com. The body of the email contained the text, "April...Didn't see windyum (?) On computer...but super 8 and motel 6... can book them...just the Friday 21 Nov? Means I come down 20 and get room...or can we have more time...try to tell me what more u know so I can book room tomorrow...know u need to sneak but if we hook on Thursday want to be there in morning...want time with u not traveling. See several places 76/jeresy pike...tell me if u know one close but not getting busted. U said 20th. Next Thursday...if right will book car for wed. Get room wed- fri? Or can we have fri as well...then make sure we have room both days. Once we do this I'll be able to not be so complex if we keep on...know u sneaking time on computer but maybe note early. Will book room as M. Tway Smith. On my id and better than "mike" which sounds fake. Looks like I get good deal on wheels in Trenton. Give me any ideas u have and what hours we have...just day while ditching or more...Tway."

31. On November 14, 2014, at approximately 5:21 AM, SA Beagle received an email on the undercover email account from email address mtways2111@gmail.com. The body of the email contained the text, "April...Need to clear this up. U said Friday 20th. That is 21st. 20 is Thursday. We get both? Will book either super 8 (maple shade) or motel 6 (mt laurel) for wed night for me and meet u Thursday. If

u have Friday as well will book that day. Tell me dates and which is easier for u I'll book today for ur sleepover. Both seem near 73...."

32. On November 14, 2014, at approximately 5:56 AM, SA Beagle received an email on the undercover email account from email address mtways2111@gmail.com. The body of the email contained the text, "April...Ok I'll do motel 6. I'll get in wed night. Meet u Thurs morning we go to room. Guess we set alarm on mobile to make sure u get out in time in case we get to carried away. hehe. Should I count on u ditching Friday? Is that pushing it? Kisses and licks."

33. On November 14, 2014, at approximately 6:03 AM, SA Beagle received an email on the undercover email account from email address mtways2111@gmail.com. The body of the email contained the text, "No pic to forward. #888-708-3812. Resv. Name M. Tway Smith. 19-22 Nov dates. 2 adults king bed non smoking. Payment by MC. Pay on check in which I'll do wed. Know u can't stay the night but that way we get all day to mess around thr-fri."

34. On November 14, 2014, at approximately 8:39 AM, SA Beagle sent an email using the undercover email account to email address mtways2111@gmail.com. The body of the email contained the text, "so like ur gonna bring condoms right? and could u like bring me a big sports jersey or something (kinda random). i just luv to wear them as pajamas. Kisses."

35. On November 14, 2014, at approximately 8:51 AM, SA Beagle received an email on the undercover email account from email address mtways2111@gmail.com. The body of the email contained the text, "April...Was planning to bring condoms both male and female. Never used female but wondered but that will be to u. Have night shirt or large T-shirt. Will bring. Also have lube...condoms for fingers. Depends on mood and what ur limits might be...why pjs? Want to lick and kiss u the whole time we have and be pretty naked...kisses . . ."

36. On November 14, 2014, at approximately 3:31 PM, SA Beagle sent an email using the undercover email account to email address mtways2111@gmail.com. The body of the email contained the text, "honestly, im just gonna hang out prolly most of sat with friends i slept over with. then prolly watch football on sunday or something. maybe try to sneak on the computer here and there to see if u emailed me or not. so like, can i ask u something? kinda lame, and if u dont

want to, no worries. like if u get a chance this weekend, could u like tell me everything from start to finish what you wanna do? like when we see each other and then go in the room....like start there."

37. On November 14, 2014, at approximately 3:42 PM, SA Beagle received an email on the undercover email account from email address mtways2111@gmail.com. The body of the email contained the text, "April....Well meet u. Go to room. Hug and kiss...undo clothing on both. Kiss and lick u all over. Play with ur tits... then ask...like all the way but ur call...and we chat about what we each want...kisses"

38. On November 14, 2014, at approximately 3:50 PM, SA Beagle received an email on the undercover email account from email address mtways2111@gmail.com. The body of the email contained the text, "April...Sorry. Didn't go to finish. Ideally inside you. Condom or no."

39. On November 14, 2014, at approximately 5:30 PM, I confirmed with motel management at the Motel 6 located at 2798 Route 73 North, Maple Shade Township, New Jersey 08052, that an individual by the name of M. Tway Smith made a reservation on November 14, 2014 requesting check-in at that location on November 19, 2014 and checking out on November 22, 2014. M. Tway Smith provided a cellular telephone number and a zip code of 10008. The reservation was made through the Expedia website. M. Tway Smith requested a non-smoking room with a king sized bed and stated there would be two guests staying in the room.

40. On November 16, 2014, at approximately 6:34 PM, SA Beagle received an email on the undercover email account from email address mtways2111@gmail.com. The body of the email contained the text, "April...This may sound lame but are u good with computers?"

41. On November 16, 2014, at approximately 6:55 PM, SA Beagle sent an email using the undercover email account to email address mtways2111@gmail.com. The body of the email contained the text, "kind of i guess? whats up?"

42. On November 16, 2014, at approximately 7:00 PM, SA Beagle received an email on the undercover email account from email address mtways2111@gmail.com. The body of the email contained the text, "Well need to figure out Toshiba laptop...could bring down but don't want to interfere with sex. But thought u might have better ideas...I'm

still learning what u grew up with so maybe we figure a way to teach me. Ur first as I said and 4 nights until thur morning..."

43. On November 16, 2014, at approximately 7:03 PM, SA Beagle sent an email using the undercover email account to email address mtways2111@gmail.com. The body of the email contained the text, "well what r u trying to do? i would say bring it. maybe i can help"

44. On November 17, 2014, I confirmed through the New York State Department of Motor Vehicles that an individual by the name of Michael Tway Smith, with a date of birth of August 2, 1948, resides at 794 9th Avenue, Apartment 5FS, New York, New York, 10019. The information further revealed that Smith has a mailing address of PO Box 2911, New York, New York 10008, and that his driver's license has a photograph.

45. On November 17, 2014, at approximately 10:00 AM, SA Beagle received an email on the undercover email account from email address mtways2111@gmail.com. The body of the email contained the text, "Got ticket to Trenton where I get wheels. Think I figured out how to get to motel 6. Check in about 4. Make sure ready for Thur. I'll probably have lots of questions so deal is: if I ask something u just say "don't want answer" no reason just say that. Got things cleaned up at my place...also made sure I have everything ready. Bringing lots of condoms u can keep any not used. Hard to keep my mind on things other than greeting u with a hug and kiss...kisses & licks..."

46. On November 17, 2014, at approximately 10:29 AM, SA Beagle received an email on the undercover email account from email address mtways2111@gmail.com. The body of the email contained the text, "Told mind not working. Here pic." The email contained an attached file titled "IMG_20141117_132447.jpg". The file contained a photograph of a one way New Jersey Transit train ticket from New York Penn Station to Trenton, New Jersey. EXIF data for the file shows the photograph was taken on November 17, 2014 at 1:24 PM using a Kyocera Rise cellular telephone.

47. On November 17, 2014, at approximately 3:11 PM, SA Beagle sent an email using the undercover email account to email address mtways2111@gmail.com. The body of the email contained the text, "like ill check it out tomorrow when im out and about. i think there are a couple places like right by the hotel."

48. On November 17, 2014, at approximately 3:16 PM, SA Beagle received an email on the undercover email account from email address mtways2111@gmail.com. The body of the email contained the text, "Places for what? I just to know where I meet u thur. Don't worry anything other than where u need to go."

49. On November 17, 2014, at approximately 3:20 PM, SA Beagle sent an email using the undercover email account to email address mtways2111@gmail.com. The body of the email contained the text, "ok. maybe i missed what u meant. u said ask for directions. i thought u meant like directions to a place we can meet outside the hotel before we go to the room. like i dont wanna be a bitch but if its ok, i dont wanna just walk to a room. just thought we could meet like at a dunkin donuts, coffee shop, or someting like that. is that ok? a 13yo going to a hotel room alone kinda looks sketch."

50. On November 17, 2014, at approximately 3:28 PM, SA Beagle received an email on the undercover email account from email address mtways2111@gmail.com. The body of the email contained the text, "Ok my fault. My plan is u tell me where I pick u up. That's the point of wheels. So what need is u tell me where to find u...someplace easy for u to get to. No way I want u to walk in alone. Remember we are 2 adults and don't need to prove others. Besides cold and maybe rain... so I get u. Will email u with make and color of car and what I have on. Kisses."

51. On November 17, 2014, at approximately 4:35 PM, SA Beagle sent an email using the undercover email account to email address mtways2111@gmail.com. The body of the email contained the text, "yes ticklish. never had a back rub. so like i have to go until tomorrow. like if u want, just put a bunch of questions u want answered and ill try to answer them in the morning. kewl? sorry, but we have stuff going on tonight and i cant get on the comp. i just know my heart is like gonna aexplode cause it like pounding. im like so excited. anyway. kisses till tomorrow and i hope u think of me. if not, ill be sad."

52. On November 17, 2014, at approximately 4:41 PM, SA Beagle received an email on the undercover email account from email address mtways2111@gmail.com. The body of the email contained the text, "Yes. I will of u. And think of giving u backrubs . Good time to stop need to get home and charge mobile. Battery dieing. More later for u to read tomorrow..."

53. On November 19, 2014, I confirmed through the United States Department of State's website that Michael Tway Smith has a United States Passport. Based on information contained in the database, Michael Tway Smith applied for a replacement passport on April 22, 2014. According to the Statement Regarding Lost or Stolen Passport that Michael Tway Smith filed with the State Department on April 22, 2014, Smith provided a copy of his New York State driver's license. The information for that driver's license corresponds to the driver's license information described in paragraph 44 of this affidavit. Additional information provided by Smith is also consistent with his other personal identifying information as well as his email address, mtways2111@gmail.com. The passport photograph of Smith on file with the State Department is of the same individual holding the New York State driver's license described in paragraph 44 and the passport and driver's license photographs are of the same person on the Chathour.com website using the "mtsmith" profile.

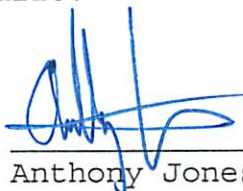
54. On November 19, 2014, a law enforcement agent conducted a physical surveillance at Smith's apartment building in New York. At approximately 12:15 PM, Smith was observed leaving the building carrying what appeared to be two pieces of luggage.

54. On November 19, 2014, at approximately 7:00 PM, I observed Smith in the lobby of the Motel 6 located at 2798 Route 73 North, Maple Shade Township, New Jersey 08052. Hotel management subsequently confirmed that Smith had checked in to the motel and provided me with a photograph of his New York driver's license which contained the same information for the driver's license described in paragraph 44 of this affidavit.

55. On November 20, 2014, at approximately 8:30 AM, Smith was arrested when he arrived at an arranged meeting location where he believed he was going to meet the thirteen year-old girl.

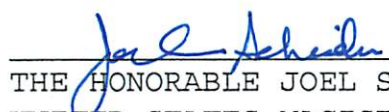
56. Following his arrest, Smith spoke with law enforcement agents after being advised of his Miranda rights and made statements

indicating knowledge of his guilt.

A handwritten signature in blue ink, appearing to read 'Anthony Jones', written over a horizontal line.

Anthony Jones, Special Agent
Department of Homeland Security

Sworn to and subscribed before me
this 20th day of November, 2014:

A handwritten signature in blue ink, appearing to read 'Joel Schneider', written over a horizontal line.

THE HONORABLE JOEL SCHNEIDER
UNITED STATES MAGISTRATE JUDGE